

ORDINANCE NO. O-02-1164

**AN ORDINANCE OF THE CITY OF SAN MARINO AMENDING
ARTICLE 12 OF CHAPTER XIV OF THE SAN MARINO CITY
CODE REGARDING STORM WATER MANAGEMENT AND
DISCHARGE CONTROL**

The City Council of the City of San Marino does hereby ordain as follows:

Section 1. Findings

A. The federal Clean Water Act (33 U.S.C. Section 1251, et seq.) provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (NPDES) requirements to storm water and urban runoff discharge into municipal storm drain systems,

B. Storm water and urban runoff flows from individual properties onto streets, then through storm drains passing through the city and finally into the waters of the United States;

C. The city is a co-permittee under the "Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles," issued by the California regional water quality control board—Los Angeles region (Order No. 96-054), dated July 15, 1996, which also serves as a NPDES permit under the federal Clean Water Act (NPDES No. CAS614001), as well as waste discharge requirements under California law (the municipal NPDES permit) and, as a co-permittee under the municipal NPDES permit, the city is required to adopt ordinances and implement procedures with respect to the entry of nonstorm water discharges into the municipal storm water system;

D. Part 1, Section I of the municipal NPDES permit required the city to effectively prohibit nonstorm water discharges from within its boundaries, into that portion of the municipal separate storm sewer system (MS4) which it owns or operates and into watercourses, except where such discharges are: (1) in compliance with a separate individual or general NPDES permit, or (2) identified and in compliance with Part 2.II.C (nonstorm water discharges) of the municipal NPDES permit, or (3) originate from federal, state or other facilities which the city is pre-empted from regulating, and further provides that compliance with the terms of the municipal NPDES permit through the development and implementation of the programs described in the municipal NPDES permit will constitute compliance with the discharge prohibition in the municipal NPDES permit;

E. Part 2, Section I.E. of the municipal NPDES permit requires the City to demonstrate by November 29, 1996 that it possesses the legal authority necessary to control discharges to and from those portions of the MS4 over which it has jurisdiction, so as to comply with the municipal NPDES permit and to specifically prohibit certain discharges identified in the municipal NPDES permit;

F The municipal NPDES permit contemplates the development of a countywide storm water management plan (CSWMP) and then a watershed management area plan (WMAP), in which the City will participate, which will in turn require the development and the implementation of programs for, among other things, the elimination of illicit connections and illicit discharges, development planning, development construction, and public information and education requirements, and which may require the later adoption of additional legal authority to implement such programs as they are developed by the permittees and approved by the California regional water quality control board—Los Angeles region;

G. In order to control, in a cost-effective manner, the quantity and quality of storm water and urban runoff to the maximum extent practicable, the adoption of the ordinance codified in this article is essential.”

Section 2. The first paragraph of Section 14.12 03 of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby amended to read as follows:

“Except as specifically provided herein, any term used in this article shall be defined as that term is defined in the current municipal NPDES permit, or in the current version of the Standard Urban Storm Water Mitigation Plan (“SUSMP”) approved by the Regional Water Quality Control Board-Los Angeles Region, or if it is not specifically defined in either the municipal NPDES permit or the SUSMP, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. If the definition of any term contained in this ordinance conflicts with the definition of the same term in the current municipal NPDES Permit or the current version of the SUSMP, then the definition contained in the municipal NPDES permit shall govern and, if not set forth in the municipal NPDES permit, the definition contained in the SUSMP shall govern. The following words and phrases shall have the following meanings when used in this article.”

Section 3. Section 14.12.03 of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby amended to substitute the following definitions for and in place of the existing definitions, to read as follows:

“COMMERCIAL DEVELOPMENT: Any development on private land that is not heavy industrial or residential. The category includes, but is not limited to hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.”

“ENVIRONMENTALLY SENSITIVE AREA (ESA) An area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are areas designated as Significant Ecological Areas by the County of Los Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976) and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game’s Significant Natural Areas Program, provided that

area has been field verified by the Department of Fish and Game, an area listed in the Basin Plan as supporting the Rare, Threatened, or Endangered Species (RARE) beneficial use; and an area identified by the city as environmentally sensitive ”

“HILLSIDE: Property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five percent (25%) or greater and where grading contemplates cut or fill slopes.”

“MUNICIPAL NPDES PERMIT: The ‘Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles, and the Incorporated Cities Therein, Except the City of Long Beach’ (Order No. 01-182, NPDES Permit No. CAS00401), dated December 13, 2001, issued by the California regional water quality control board -- Los Angeles region, and any successor permit to that permit.”

“PARKING LOT: Land area or a facility for the parking or storage of motor vehicles used for businesses, commerce, industry or personal use with a lot size of five thousand (5,000) square feet or more of surface area, or with twenty-five (25) or more parking spaces.”

“REDEVELOPMENT: Land disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000) square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition: (1) the expansion of a building footprint; (2) addition or replacement of a structure; (3) replacement of impervious surface that that is not part of a routine maintenance activity; and (4) land disturbing activities related to structural or impervious surfaces. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Existing single family structures are exempt from the Redevelopment requirements set forth in this article.”

“RESTAURANT: A facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. (SIC Code 5812) ”

Section 4. Section 14.12.03 of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby amended to add the following new definitions in appropriate alphabetical sequence, to read as follows.

“AUTOMOTIVE SERVICE FACILITIES: A facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes. 5013, 5014, 5541, 7532-7534, or 7536-7539 (as amended) ”

“CONSTRUCTION: Constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water; mechanical permit work; or sign permit work.”

"CONTROL: To minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities."

"DEVELOPMENT: Any construction, rehabilitation, Redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety."

"DIRECTLY ADJACENT. Situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area."

"DISCHARGE: When used without qualification the 'discharge of a pollutant.'"

"DISCHARGING DIRECTLY: Outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands."

"DISCHARGE OF A POLLUTANT. Any addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source' or, any addition of any pollutant or combination of pollutants to the waters of the 'contiguous zone' or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works "

"DISTURBED AREA: An area that is altered as a result of clearing, grading, and/or excavation "

"PLANNING PRIORITY PROJECTS: Those projects that are required to incorporate appropriate storm water mitigation measures into the design plan for their respective project, including:

1. Ten (10) or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments);
2. A One Hundred-Thousand (100,000) or more square feet of impervious surface area industrial/commercial development,
3. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539),
4. Retail gasoline outlets;

5. Restaurants (SIC 5812);
6. Parking lots Five Thousand (5,000) square feet or more of surface area or with 25 or more parking spaces;
7. Redevelopment projects in subject categories that meet Redevelopment thresholds;
8. Projects located in or directly adjacent to or discharging directly to an ESA, which meet the thresholds described herein; and
9. Those projects that require the implementation of a site-specific plan to mitigate post-development storm water for new development not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, and where the following project characteristics exist:
 - (a) Vehicle or equipment fueling areas;
 - (b) Vehicle or equipment maintenance areas, including washing and repair;
 - (c) Commercial or industrial waste handling or storage;
 - (d) Outdoor handling or storage of hazardous materials;
 - (e) Outdoor manufacturing areas,
 - (f) Outdoor food handling or processing;
 - (g) Outdoor animal care, confinement, or slaughter; or
 - (h) Outdoor horticulture activities.”

"PROJECT: All development, redevelopment, and land disturbing activities.”

"RUNOFF: Any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated, and nuisance flows.”

“SIGNIFICANT REDEVELOPMENT. Land-disturbing activity that results in the creation or addition or replacement of five thousand (5,000) square feet or more of impervious surface area on an already developed site.”

“SITE: The land or water area where any ‘facility or activity’ is physically located or conducted, including adjacent land used in connection with the facility or activity.”

Section 5. Section 14.12 095(A) of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby

amended to read as follows:

“A. Projects Requiring a SUSMP: The following projects for new development and redevelopment, if subject to discretionary project approval in the zoning ordinance of the city, shall require a storm water mitigation plan which complies with the most recent SUSMP and the current municipal NPDES permit

1. Ten or more unit homes (includes developments of single family homes, condominiums and apartments),
2. A One Hundred Thousand (100,000) or more square feet of impervious surface area industrial/commercial development;
3. Automotive service facilities (SIC 5013, 5014, 5542, 7532-7534 and 7536-7539);
4. Retail gasoline outlets;
5. Restaurants (SIC 5812);
6. Parking lots Five Thousand (5,000) square feet or more of surface area or with twenty-five (25) or more parking spaces;
7. Redevelopment projects in subject categories that meet redevelopment thresholds;
8. Any new development or redevelopment project located in or directly adjacent to or discharging directly into an environmentally sensitive area (as defined herein), where the development will
 1. Discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat, and
 - ii. Create 2,500 square feet or more of impervious surface area.”

Section 6. Section 14.12.095(B) of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby amended to read as follows:

“B. Incorporation of SUSMP into Project Plans:

1. An applicant for a new development or a redevelopment project identified in paragraph A of this Section shall incorporate into the applicant’s project plans a storm water mitigation plan (“SWMP”), which includes those best management practices necessary to control storm water pollution from construction activities and facility operations, as set forth in the SUSMP applicable to the applicant’s project. Structural or Treatment Control BMPs (including, as applicable, post-construction Treatment Control BMPs) set forth in project plans shall meet the design standards set forth in the SUSMP and the current municipal NPDES permit.
2. If a project applicant has included or is required to include Structural or

Treatment Control BMPs in project plans, the applicant shall provide verification of maintenance provisions. The verification shall include the applicant's signed statement, as part of its project application, accepting responsibility for all structural and treatment control BMP maintenance until such time, if any, the property is transferred.

3. A new single-family hillside home development shall include mitigation measures to

- a. Conserve natural areas;
- b. Protect slopes and channels;
- c. Provide storm drain system stenciling and signage;
- d. Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and
- e. Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability

4. The following categories of planning priority projects (as defined herein) shall be designed to implement post-construction Treatment Controls which meet the standards set forth in the SUSMP and the current municipal NPDES permit, to mitigate storm water pollution:

- a. Single-family hillside residential developments of one (1) acre or more of surface area;
- b. Housing developments (including single family homes, multifamily homes, condominiums, and apartments) of ten (10) units or more;
- c. A 100,000 square feet or more impervious surface area industrial/commercial development;
- d. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area],
- e. Retail gasoline outlets (5,000 square feet or more of impervious surface area and with projected Average Daily Traffic (ADT) of 100 or more vehicles). [Subsurface Treatment Control BMPs which may endanger public safety (i.e., create an explosive environment) are considered not appropriate];
- f. Restaurants (SIC 5812) [5,000 square feet or more of surface area],
- g. Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces;

h. Projects located in, adjacent to or discharging directly to an Environmentally Sensitive Area that meet threshold conditions identified above in Section 14.12.095(A)(8); and

1. Redevelopment projects in subject categories that meet Redevelopment thresholds.

5. The following categories of projects which otherwise do not require a SUSMP, but which may potentially have adverse impacts on post-development storm water quality, shall be designed to include post-construction Treatment Controls to mitigate storm water pollution and the implementation of a site-specific plan to mitigate post-development storm water for new development and redevelopment where one or more of the following project characteristics exist.

- a. Vehicle or equipment fueling areas;
- b. Vehicle or equipment maintenance areas, including washing and repair,
- c. Commercial or industrial waste handling or storage;
- d. Outdoor handling or storage of hazardous materials;
- e. Outdoor manufacturing areas;
- f. Outdoor food handling or processing;
- g. Outdoor animal care, confinement, or slaughter; or
- h. Outdoor horticulture activities.

6. A SUSMP, or site-specific requirements, including post-construction storm water mitigation, shall be required for all Planning Priority Projects (as defined herein) that undergo Significant Redevelopment (as defined herein) in their respective categories.

7. Existing single family structures are exempt from the Redevelopment requirements set forth in this article.”


Section 7. Section 14.12.095(C) of Article 12 (“Storm Water Management and Discharge Control”) of Chapter XIV (“Miscellaneous”) of the San Marino City Code is hereby amended to read as follows:

“C. Issuance of Discretionary Permits No discretionary permit may be issued for any new development or redevelopment project identified in paragraph A of this Section until the authorized enforcement officer confirms that either (1) the project plans comply with the applicable SUSMP requirements; or (2) compliance with the applicable SUSMP requirements is impracticable for one or more of the reasons set forth in paragraph E regarding issuance of waivers Where redevelopment results in an alteration to more than fifty percent (50%) of impervious surfaces of a previously existing development, and the existing development was not subject to post-development storm water quality control requirements, the entire project must be

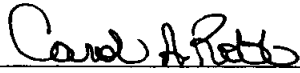
mitigated. Where redevelopment results in an alteration to less than fifty percent (50%) of impervious surfaces of a previously existing development, and the existing development was not subject to post-development storm water quality control requirements, only the alteration must be mitigated, and not the entire development."

Section 8. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 30th day of August, 2002


EMILE J. BAYLE, MAYOR

ATTEST:


CAROL A. ROBB, MMC
CITY CLERK

APPROVED AS TO FORM:

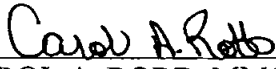

STEVEN L. DORSEY
CITY ATTORNEY

I HEREBY CERTIFY that the foregoing Ordinance No. O-02-1164 was duly adopted by the City Council of the City of San Marino at an Adjourned Regular Meeting of the City Council held on the 30th day of August, 2002, by the following vote

AYES: COUNCILMEMBERS FILUTZE, LIN, TWIST, VICE MAYOR BROWN, AND MAYOR BAYLE.

NOES. NONE.

ABSENT: NONE



CAROL A. ROBB, MMC
CITY CLERK

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